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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER | |
|---|---|
| LEE, ANDREW CHUNG CHEUNG | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/593,587 | ALVAREZ AREVALO ET AL. | |
| | Examiner | Art Unit | |
| | Andrew C. Lee | 2476 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *19 May 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *19-32* is/are pending in the application.

4a) Of the above claim(s) *1-18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/19/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

1. Claims 1 – 18 have been canceled.

Claims 19 – 32 are newly added and are pending.

### *Information Disclosure Statement*

2. The information disclosure statement (IDS) submitted on 05/19/2010 was filed, and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### *Claim Objections*

3. Claims 30 is objected to because of the following informalities:

Regarding claim 30, the paragraph has fused sentence problem. Punctuations and/or coordinating conjunctions are required. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19, 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 19, 20, the claims are claiming a method claim as defined in the preamble, the main body of the claims should comprise of method steps. The method steps should comprise the action words (gerunds) to perform all the steps; however, the current main

body of the claims comprises apparatus/device claims. It is not clear what the applicant is going to claim. Is the claim a method claim or an apparatus claim? Clarification and appropriate correction are required.

Claims 19, 20, 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 19, the recited claimed subject matters “a point in the transmission of the recording is reached at which” (lines 8 – 9), “when the point is reached” (line 13) are very ambiguous and indefinite. One of ordinary skill in the art does not understand and is not sure what applicant means by “a point” referring to. Does “a point” refer to “a time frame” or refer to “quantity of transmitted/received multimedia data”. From the claim alone, the subject matter “a point” itself does not explicitly define clearly. Clarification and appropriate correction are required.

Regarding claims 20, 32, the claims have the same discrepancies as addressed in claim 19. Clarification and appropriate correction are required.

Claim 19 recites the limitation "the whole of the recording" in line 8.There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the whole of the recording" in lines 8 and 16, respectively, the limitation “the condition” in line 17, “the maximum of the extent” in line 18, and “the transmission time of the respective following section” in line 19.There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "said start message" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "said maximum timing values" in lines 2 - 3, “the buffer contents” in line 4.There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the remainder of said first section" in lines 1 - 2.There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the identified section" in line 4.There is insufficient antecedent basis for this limitation in the claim.

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 25, the recited claimed subject matters “its transmission” is unclear and very ambiguous. One of ordinary skill in the art does not understand and is not sure what applicant means by “its transmission” referring to. Clarification and appropriate correction are required.

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 26, the recited claimed subject matters “storing them” is unclear and very ambiguous. One of ordinary skill in the art does not understand and is not sure what applicant means by the pronoun “them” referring to. Clarification and appropriate correction are required.

Claim 30 recites the limitation "the whole of the recording" in lines 3, the limitation “the condition” in lines 4 – 5, “the maximum of the extent” in lines 5 – 6, and “the transmission time of the respective following section” in line 6, “said control message” in line 8.There is insufficient antecedent basis for this limitation in the claim.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 25, the recited claimed subject matters "that its covers" is unclear and very ambiguous. One of ordinary skill in the art does not understand and is unclear what applicant means by the pronoun "its" in "that its covers" refer to. Clarification and appropriate correction are required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 19, 32, 27, 28, 29, 30, 31, 20, 21, 22, 23, 24, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harumoto et al. (US 7016970 B2) in view of Feig et al. (US 7251833 B2).

**Regarding claims 19, 32,** Harumoto et al. disclose a method, a transmission system *(Abstract, "method", "terminal"; Fig. 4, col. 1, lines 10 – 14)* of transmitting a recording comprising a sequence of data packets from a server *(Fig. 2, element 101, server)* comprising a data store *(Fig. 2, element 404, RAM, col. 10, lines 1 – 10)*, a control unit *(Fig. 2, element 405, generation module, col. 9, lines 56 – 60)* and a transmitter *(Fig. 2, element 402, transmission/reception module, col. 9, lines 61 – 67)* over a network *(Fig. 2, element 103, network)* to a receiver *(Fig. 3, terminal, col. 10, lines 11 – 20)* comprising a receiver buffer *(Fig.*

*3, element 505, reception buffer)*, the method comprising: the server commencing transmission over the network of the recording to the receiver *("start distributing the data stream…"; Fig. 4, col. 8, lines 8 – 28);* the receiver holding received data in said receiver buffer *("the terminal receives and stores the data stream…"; Fig. 4, col. 8, lines 8 – 28)*; and at the server, the control unit: analyzing the whole of the recording to determine where a point in the transmission of the recording is reached *(col. 18, lines 62 – 67, col. 19, lines 1 – 10)* at which, if the receiver were to commence playing data already transmitted and held in said receiver buffer, said receiver buffer would not underflow *(Fig. 4, col. 12, lines 61 – 67, col. 13, lines 1 – 28; Fig. 21B, col. 4, lines 55 – 64, "the buffer will not underflow"); except explicitly* generating a message to be sent to the receiver by said transmitter to instruct the receiver to commence playing said received data when the point is reached; and continuing transmission to the receiver.

Feig et al. in the same field of endeavor teach generating a message (tokens) to be sent to the receiver by said transmitter to instruct the receiver to commence playing said received data when the point is reached; and continuing transmission to the receiver *(Abstract, Fig. 3, col. 6, lines 38 – 55, 65 – 67, col. 7, lines 1 – 7)*. At time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Harumoto et al. to include the features of generating a message to be sent to the receiver by said transmitter to instruct the receiver to commence playing said received data when the point is reached; and continuing transmission to the receiver as taught by Feig et al. One of ordinary skill in the art would be motivated to do so for providing a

method for enforcing the sequential playback of a media file *(as suggested by Feig et al., see col. 1, lines 58 – 59)*.

**Regarding claim 27,** Harumoto et al. disclose a method claimed in which the analyzing comprises: testing a timing error parameter evaluated for successive portions of the recording *(col. 19, lines 4 – 10)*, wherein the timing error parameter is first calculated in respect of a first or early portion of the recording and the timing error parameter for subsequent portions is obtained by updating the parameter obtained for the preceding portion *(col. 17, lines 48 – 65)*.

**Regarding claim 28,** Harumoto et al. disclose a method claimed in which the recording is a video recording *("video and audio is stored"; col. 9, lines 40 – 44)*.

**Regarding claim 29,** Harumoto et al. disclose a method claimed in which the recording is an audio recording ("video and audio is stored"; col. 9, lines 40 – 44).

**Regarding claim 30,** Harumoto et al. disclose a method as claimed in claim 19, wherein: the recording is transmitted in a network from the server to the receiver at a fluctuating transmitting data rate which is not known *("…transfer rate fluctuates…."; Fig. 20, col. 2, lines 54 – 65; col. 3, lines 35 – 42)* when the whole of the recording is analyzed to identify a first section at the beginning of the recording which meets the condition that it covers a playing time interval greater than or equal to the maximum of the extent to which the transmission time of the respective following section exceeds its playing time interval for a following data section of any length *(Fig. 9, col. 17, 14 – 65)*; and said control message causes

the receiver to commence playing of received data only after said first section has been received.

**Regarding claim 31,** Harumoto et al. disclose a method claimed wherein the recording is transmitted over a network and is to be played in real time by the receiver *("....decodes and playback the stream..."; col. 10, lines 21 – 28).*

**Regarding claim 20,** Harumoto et al. disclose a method *(Abstract, "method"; col. 1, lines 10 – 14)* of transmitting a recording comprising a sequence of data packets from a server *(Fig. 2, element 101, server)* comprising a data store *(Fig. 2, element 404, RAM, col. 10, lines 1 – 10)*, a control unit *(Fig. 2, element 405, generation module, col. 9, lines 56 – 60)* and a transmitter *(Fig. 2, element 402, transmission/reception module, col. 9, lines 61 – 67)* over a network *(Fig. 2, element 103, network)* to a receiver *(Fig. 3, terminal, col. 10, lines 11 – 20)* comprising a receiver buffer *(Fig. 3, element 505, reception buffer)*, the method comprising: the server commencing transmission of the recording over the network to the receiver *("start distributing the data stream..."; Fig. 4, col. 8, lines 8 – 28);* the receiver holding received data in said receiver buffer *("the terminal receives and stores the data stream..."; Fig. 4, col. 8, lines 8 – 28)*; and at the server, the control unit: analyzing the whole of the recording to determine where a point in the transmission of the recording is reached *(col. 18, lines 62 – 67, col. 19, lines 1 – 10)* at which, if the receiver were to commence decoding data already transmitted and held in said receiver buffer, said receiver buffer would not underflow *(Fig. 4, col. 12, lines 61 – 67, col. 13, lines 1 – 28; Fig. 21B, col. 4, lines 55 – 64, "the buffer will not underflow")*; wherein, said point is

determined by analyzing the whole of the recording to identify a first section at the beginning of the recording which meets the condition that it covers a playing time interval greater than or equal to the maximum of the extent to which the transmission time of the respective following section of the recording exceeds its playing time interval for a following section of any length *(Fig. 9, col. 17, 14 – 65)*; the control message causes the receiver to commencing playing of received data only after said first section has been received *(Col. 17, lines 32 – 45); except explicitly* generating a control message to be sent to the receiver by said transmitter to instruct the receiver to commence decoding said received data when the point is reached; and continuing transmission to the receiver.

Feig et al. in the same field of endeavor teach generating a message (tokens) to be sent to the receiver by said transmitter to instruct the receiver to commence playing said received data when the point is reached; and continuing transmission to the receiver *(Abstract, Fig. 3, col. 6, lines 38 – 55, 65 – 67, col. 7, lines 1 – 7).* At time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Harumoto et al. to include the features of generating a message to be sent to the receiver by said transmitter to instruct the receiver to commence playing said received data when the point is reached; and continuing transmission to the receiver as taught by Feig et al. One of ordinary skill in the art would be motivated to do so for providing a method for enforcing the sequential playback of a media file *(as suggested by Feig et al., see col. 1, lines 58 – 59).*

**Regarding claim 21,** Harumoto et al. disclose a method claimed wherein after transmission of said first section, said start message is transmitted to instruct the receiver to commence playing *(Fig. 4, col. 13, lines 8 – 28)*.

**Regarding claim 22,** Harumoto et al. disclose a method claimed comprising: transmitting to the receiver an instruction specifying the first section and wherein the receiver commences playing when said receiver recognizes that the first section is in said receiver buffer *(Fig. 4, col. 13, lines 8 – 28)*.

**Regarding claim 23,** Harumoto et al. disclose a method claimed at the server, said analyzing comprises computing said maximum timing error values for different sections of the sequence *(col. 19, lines 11 – 19),* and at the receiver, the values are compared with the buffer contents to recognize when said first section is in the buffer *(Fig. 9, col. 19, lines 25 – 51)*.

**Regarding claim 24,** Harumoto et al. disclose a method claimed comprising: withholding transmission of an initial part of the recording until the remainder of said first section has been transmitted *( "…amount of data that can actually be stored…."; Fig. 4, col. 12, lines 2 – 14)*; and transmitting said initial part; wherein the receiver commences playing only when said initial part is received *(Fig. 4, col. 12, lines 2 – 28)*.

**Regarding claim 25,** Harumoto et al. disclose a method claimed including: performing the analysis in advance of said transmission of said recording to the receiver *("…calculate the buffer occupancy at a certain time in the future,,…."; col. 19, lines 11 – 19)*; and marking the identified section in the recording prior to its transmission *("…estimate the change of buffer occupancy SUM…."; col. 19, lines 19 – 31)*.

**Regarding claim 26,** Harumoto et al. disclose a method claimed wherein said analyzing includes: computing, in advance, timing error values corresponding to a plurality of transmitting data rates and storing them *(col. 11, lines 29 – 44)*; and subsequently estimating therefrom an error value corresponding to an actual transmitting data rate *(col. 11, lines 49 – 51).*

### *Response to Arguments*

7. Applicant's arguments filed on 5/19/2010 with respect to claims 19 – 32 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Lee whose telephone number is (571)272-3131. The examiner can normally be reached on Monday through Friday from 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew C Lee/
Examiner, Art Unit 2476
<4Q10::7_15_10>

/Salman Ahmed/
Primary Examiner, Art Unit 2476